

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARVIN G. JOHNSON,

Petitioner,

v.

DAVID BOBBY, Warden,

Respondent.

**Case No. 2:08-cv-55
Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Kemp**

ORDER STAYING BRIEFING OF TRAVERSE

Petitioner, a prisoner sentenced to death by the State of Ohio, has before this Court a habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the Court on Petitioner's Unopposed Motion to Stay Briefing of Traverse. (ECF No. 99.)

Pursuant to the Court's July 22, 2016 Order, Petitioner's Amended Traverse is due on September 16, 2016. (ECF No. 97.) Petitioner now asks the Court to stay the briefing schedule of the Traverse. (ECF No. 99, at Page ID # 10518.)

Petitioner explains that the Court recently granted his request for funds to employ a DNA consultant to review and advise Petitioner about a DNA report that Respondent provided to Petitioner several months ago. Petitioner further states that he is in the process of working with CJA Budgeting Attorney Robert Ranz about the funding request and contacting his proposed DNA expert to review the report and other relevant materials. "[U]ntil the DNA expert reviews the DNA report and BCI&I's files," Petitioner asserts, "it is difficult to determine what, if any, impact the DNA report may have on [Petitioner]'s Eleventh Habeas Ground and on the case as a

whole.” (*Id.*) Petitioner continues:

Any impact may alter the way in which [Petitioner] continues to litigate this case, and the way in which he prepares his Traverse. Further, it is possible that [Petitioner] may need to return to state court again to exhaust new claims or evidence in state courts relating to the DNA report and testing.¹

(*Id.*) Finally, Petitioner states that Respondent does not object to staying the briefing of the Traverse, and is in agreement with Petitioner’s proposal to provide the Court with a status report every thirty (30) days.

For good cause shown, because Respondent does not object, and because any attendant delay appears to be warranted, Petitioner’s Unopposed Motion to Stay Briefing of Traverse (ECF No. 99) is **GRANTED**. Petitioner is **DIRECTED** to file status reports every thirty (30) days.

IT IS SO ORDERED.

/s/ Terence P. Kemp
United States Magistrate Judge

¹ Nothing about this Order should be construed as expressing any opinion at this time as to whether it will be necessary or permissible for Petitioner to return to state court.